

Morgan Lewis

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APPLICATION GRANTED
SO ORDERED 
VERNON S. BRODERICK
U.S.D.J. 11/28/2023

November 27, 2023

Via ECF

The Honorable Vernon S. Broderick
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

Re: *State of New York ex rel. Ken Elder v. JPMorgan Chase Bank, N.A.,*
No: 1:23-cv-03130

Dear Judge Broderick:

We represent Defendant JPMorgan Chase Bank, N.A. ("JPMorgan") in the above-referenced action. Pursuant to Local Rule 7.1(d) and Section 1(G) of Your Honor's Individual Practices in Civil Cases, we write with the consent of Plaintiff-Relator to jointly request a 60-day extension of time, until February 12, 2024, for Defendant to file its Motion to Dismiss the Third Amended Complaint ("TAC") in this action. In support of this request, JPMorgan states as follows:

On April 14, 2023, JPMorgan removed this action to this Court invoking federal question jurisdiction over the claims in the TAC. ECF No. 1.

On the same day, pursuant to a party stipulation, JPMorgan filed a consent motion to extend JPMorgan's deadline for responding to the TAC, requesting that, in the event that Relator moves to remand the action to state court, JPMorgan's deadline for responding to the TAC be extended until 30 days after the Court either denies the motion to remand or, if remand is granted, until 30 days after the case is reopened in state court. ECF No. 5.

On April 19, 2023, via memo endorsement, the Court ordered JPMorgan "to respond to the complaint on the earlier of 30 days from the date that Relator informs the Defendant that he will not move to remand, or June 13, 2023." ECF No. 10.

On April 25, 2023, Relator filed his Motion to Remand. ECF No. 11.

Thereafter, on May 4, 2023, the Court extended the briefing deadlines for the Motion to Remand to May 19, 2023 (for JPMorgan's opposition) and June 2, 2023 (for Relator's reply). ECF No. 15. JPMorgan filed its opposition on May 19, 2023. ECF No. 16. Relator filed his reply on May 25, 2023. ECF No. 20.

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The parties respectfully submit that, because Motion to Dismiss briefing in this case will turn, in part, on the applicable pleading standards, which vary from federal to state court, it would be most efficient for the parties and the Court to defer briefing on the motion to dismiss pending a decision on Relator's Motion to Remand. In addition, the Court's decision on the Motion to Remand may address certain legal and factual questions in this case that will inform the Motion to Dismiss briefing.

On May 30, 2023, August 9, 2023, and October 2, 2023, the Court granted the parties' joint extension requests regarding this deadline (ECF Nos. 22, 24, 26), and the parties respectfully request that the Court extend the current December 12, 2023 deadline by 60 days – to February 12, 2024 – for the same reason: to allow time for the Court to decide whether this case will remain in federal court or be remanded to state court before JPMorgan has to file its motion to dismiss.

Accordingly, for good cause shown, the parties jointly request that the Court approve the extension of JPMorgan's deadline to file a motion to dismiss to February 12, 2024.

Sincerely,



Douglas W. Baruch

cc: Jennifer M. Wollenberg
Michael Devorkin
David Golub